

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No.1561/2019

Date of presentation of Appeal.....24.10.2019
Date of Hearing.....30.07.2024
Date of Decision.....30.07.2024

Saeed Jan S/O Muhammad Yaqoob, Resident of of Mirzadher, Tehsil Tangi, District Charsadda.....(*Appellant*)

Versus

1. **The District Education Officer (Male)**, District Charsadda.
2. **Director of Education (E&SE)** Khyber Pakhtunkhwa, Peshawar.
3. **Ministry of Education** through its Secretary Khyber Pakhtunkhwa, Peshawar.
4. **Headmaster**, Government High School Mirzadher, Tehsil Tangi, District Charsadda.....(*Respondents*)

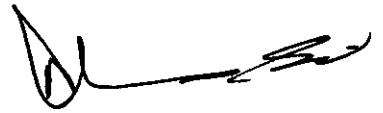
Present:

Syed Rifaqat Shah, Advocate.....For the appellant
Mr. Muhammad Jan, District Attorney.....For respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER/NOTIFICATION OF REMOVAL FROM SERVICE DATED 11.07.2019 OF THE APPELLANT AND AGAINST THE ORDER/ACTION OF RESPONDENT NO.1, WHEREBY,DEPARTMENTALAPPEAL/REPRESENTATION DATED 16.08.2019 OF APPELLANT WAS NOT ACCEPTED/DECIDED WITHIN THE STATUTORY PERIOD.

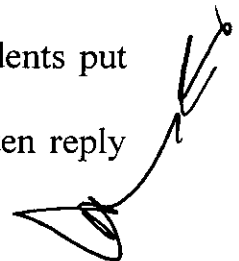
JUDGMENT



KALIM ARSHAD KHAN, CHAIRMAN: Appellant's case as per memo and grounds of appeal is that he was initially appointed as Naib Qasid in the Education

Department vide order dated 12.06.2013; that after assuming the charge, he started performing his duty; that for the purpose of his salaries, he moved an application to the respondents but in vain; that for release of his salaries, he filed Writ Petition No.186-P/2014 before the hon'ble Peshawar High Court, Peshawar and the Hon'ble Peshawar High Court vide order dated 30.1.2014 directed the respondents to consider the case of the appellant and if the relief cannot be granted, that shall be provided in writing alongwith the reasons for the same; that the respondents, vide order dated 05.08.2014 removed the appellant from service; that feeling aggrieved, he filed departmental appeal, followed by Service Appeal No.1309/2015 in this Tribunal, that was decided on 27.07.2018, whereby, the appellant was reinstated in service and the respondents were let at liberty to conduct de-novo inquiry; that the respondents again awarded major penalty of removal from service to the appellant vide impugned order dated 11.07.2019; that feeling aggrieved, he filed departmental appeal on 16.08.2019, which was not responded, hence, the instant service appeal.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply

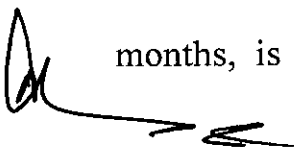


raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant, learned District Attorney for respondents and learned counsel for private respondents.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

05. In the earlier round of litigation, the appeal of the appellant bearing No.1309/2015 was allowed and the impugned order in that appeal was set aside with the direction to the respondents to reinstate the appellant in service leaving them at liberty to conduct de-novo proceedings, concluding the same within three months from the date of receipt of judgment. After the judgment, the appellant did not report to the respondents, rather admitted the fact that he was abroad till 12.03.2019 and had returned on 13.03.2019, but in the meanwhile, he was ultimately removed from service vide order dated 11.07.2019. The conduct of the appellant, especially, his going abroad and non-return after passage of earlier judgment in his favor, as well as non-submission of arrival within almost eight months, is not justified by him, therefore, the impugned



action seems to be justified and we see no merits in this case.

06. In view of the above, instant service appeal, being groundless, is dismissed with costs. Consign.

12. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of July, 2024.*



KALIM ARSHAD KHAN
Chairman



RASHIDA BANO
Member (Judicial)

Mutazem Shah